

*In re: '318 Patent Infringement Litigation,  
C.A. No. 05-356 (KAJ) (consolidated) (D. Del.)*

**EXHIBIT 2**  
**to Defendants' 12-16-05 Letter:**

**Defendants' proposed [Revised] Scheduling Order**

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

IN RE: '318 PATENT INFRINGEMENT )  
LITIGATION )

Civil Action No. 05-356-KAJ  
(consolidated)

**[REVISED] SCHEDULING ORDER**

This \_\_\_\_ day of \_\_\_\_\_, 200\_\_, the Court having conducted an initial Rule 16 scheduling and planning conference pursuant to Local Rule 16.2(a) on October 12, 2005, and having entered a scheduling order on October 21, 2005, hereby orders the following revised schedule with respect to the sections outlined below;

IT IS ORDERED that:

2. **Joinder of Other Parties and Amendments of Pleadings.**

All motions to join other parties, and to amend the pleadings, shall be filed on or before two (2) months before close of fact discovery.

4. **Discovery.**

d. **Discovery Cut Off.**

All discovery shall be completed by July 28, 2006. Fact discovery shall be initiated so that it will be completed by April 14, 2006. Expert discovery shall commence on or by May 10, 2006, and be completed by July 28, 2006. The Court encourages the parties to serve and respond to contention interrogatories early in the case. Unless otherwise ordered by the Court, the limitations on discovery set forth in Local Rule 26.1 shall be strictly observed.

e. **Disclosure of Expert Testimony.**

Unless otherwise agreed, the parties shall file their Federal Rule of Civil Procedure 26(a)(2) disclosures of expert testimony on all issues for which a party bears the burden of proof on or before May 10, 2006. The parties shall file answering expert reports on or before May 31, 2006. The parties shall submit reply expert reports on or before June 21, 2006. To the extent any objection to expert testimony is made pursuant to the principles announced in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), such objection shall be made by motion no later than the deadline for dispositive motions set forth herein, unless otherwise ordered by the Court. Any party wishing to depose an expert witness shall give reasonable notice and complete said deposition within seven (7) hours (and by the close of discovery), unless some other time and date is otherwise agreed to by counsel and/or ordered by the Court.

8. **Interim Status Reports.**

On January 6, 2006 *[suggested]* and again on May 2, 2006 *[suggested]*, counsel for all parties shall jointly submit a letter to the Court with an interim report on the nature of the matters in issue and the progress of discovery to date.

9. **Status Conferences.** On January 17, 2006 *[suggested]* and again on May 9, 2006 *[suggested]*, the Court will hold a conference under Federal Rule of Civil Procedure 16(a), (b) and (c) by telephone with counsel beginning at 4:30 p.m. Plaintiffs' counsel shall initiate the telephone call.

If all parties agree that there is nothing to report, nor anything to add to the interim status reports provided for under Paragraph 8 above or to this Order, they may so notify

the Court in writing before the related conference is scheduled to occur, and the conference will be taken off the Court's calendar.

10. **Tutorial Describing the Technology and Matters in Issue.**

The parties shall provide the Court with a tutorial on the technology at issue in person on March 21, 2006 at 4:00 p.m. *[suggested]* The tutorial should focus on the technology in issue and should not be used to argue the parties' claim construction contentions.

If the parties agree that in person presentation of tutorials is not necessary, they may so notify the Court prior to the time of the scheduled hearing, and the hearing will be taken off the Court's calendar.

If, in the alternative, the parties choose to file videotaped tutorials, they should be provided to the Court by March 21, 2006. *[suggested]* Each party may submit a videotape of not more than 30 minutes. The tutorials should focus on the technology in issue and should not be used to argue the parties' claim construction contentions. If the parties choose to file videotapes, they should be filed under seal as part of the Court's file, subject to any protective order in effect. Each party may comment, in writing (in no more than five pages) on the opposing party's videotape tutorial. Any such comment shall be filed within ten (10) days of submission of the videotapes.

11. **Case Dispositive Motions.**

All case dispositive motions, an opening brief, and affidavits, if any, in support of the motion shall be served and filed on or before August 18, 2006. Answering briefs will be served and filed on or before September 8, 2006. Reply briefs will be served on or before September 22, 2006.

13. **Claim Construction Briefs.**

Issues of claim construction shall be submitted to the Court no later than August 18, 2006.

14. **Hearing on Case Dispositive Motions/Markman Hearing.**

Beginning at 9:30 a.m. on September 28, 2006, the Court will hear evidence and argument on summary judgment and/or claim construction.

16. **Pretrial Conference.**

On January 22, 2007, the Court will hold a Final Pretrial Conference in Chambers with counsel beginning at 9:30 a.m. Unless otherwise ordered by the Court, the parties should assume that filing the pretrial order satisfies the pretrial disclosure requirement of Federal Rule of Civil Procedure 26(a)(3). The parties shall file with the Court the joint proposed final pretrial order with the information required by the form of Final Pretrial Order which accompanies this Scheduling Order, as Exhibit A, on or before December 21, 2006.

19. **Trial.**

This matter is scheduled for a ten (10) day bench trial beginning at 9:00 a.m. on February 19, 2007.

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UNITED STATES DISTRICT JUDGE